



California Regulatory Notice Register

REGISTER 2008, NO. 14-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

APRIL 4, 2008

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Thomson West and is offered by subscription for \$302.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Thomson–West/Barclays, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON
REGULATIONS**

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TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1859.71, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation section and incorporate by reference an associated worksheet, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above regulation section and adopt the associated worksheet under the authority provided by Sections 17070.35 and 17072.11 of the Education Code, and Section 15503 of the Government Code. The proposals interpret and make specific reference to Sections 17072.10 and 17072.11 of the Education Code.

**INFORMATIVE DIGEST/POLICY OVERVIEW
STATEMENT**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes

of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The SAB, at its January 30, 2008 meeting, adopted a proposed regulatory amendment and worksheet for the purpose of implementing provisions contained in Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez) and Education Code Section 17072.11. The worksheet will be utilized to collect school construction cost data in order to adjust the new construction per-unhoused-pupil grant amount by up to an additional six percent, as well as to meet the requirements for bond accountability, and the status of the bid climate.

The proposed regulatory amendment and adoption of worksheet are summarized as follows:

Existing Regulation Section 1859.71 authorizes the Board to adjust the SFP new construction per-unhoused-pupil grant amounts annually each January based on the change in the Class B Construction Cost Index. The proposed amendment authorizes the Board to adjust the per-pupil base grant amount by up to an additional six percent in conformance with AB 127 (Education Code Section 17072.11). The proposed amendment also requires school districts to report their new construction project costs to the SAB on a worksheet.

Project Information Worksheet. The SAB adopted to incorporate by reference a proposed worksheet upon which school districts are required to report their new construction project costs at the times of requesting SFP fund release (filing Form SAB 50-05) and upon submitting their Expenditure Report (filing Form SAB 50-06). The worksheet contains instructions and data fields to report the following information:

“Completed By, Phone Number, Date Completed, Application Number(s), School District, County, Project Tracking Number, Project Name, Reporting Period, Project Funding, Project Costs, Joint-Use Information, Project Information, Component Types, Total Square Feet All Facilities, Total Building Cost (Per Square Foot), Additional Information, and Comments/Additional Information.”

**IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate

or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects under the SFP.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S.

mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than May 19, 2008, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the au-

thority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **May 8, 2008**, at the offices of the Fair Political Practices Commission, 428 J Street, Sacramento, California, at **approximately 10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on May 6, 2008**.

BACKGROUND/OVERVIEW

The Commission is considering changes to 2 Cal. Code of Regulations Section 18944.2 concerning gifts to an agency. The Act defines a gift as: "any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status." (Section 82028(a).) In the 1977 *Stone* Opinion, the Commission recognized that there are circumstances where a service or benefit provided to an official actually benefits the state or a public agency, and should be considered a gift to the agency, not a gift to the public official reportable on his or her statement of economic interests and subject to gift limits under the Act.

The Commission adopted Regulation 18944.2, the exemption for gifts to an agency in 1994. Existing Regulation 18944.2 provides that a payment, which is a gift as defined by Section 82028, will be considered a gift to a public agency and not the individual official if (1) the agency receives and controls the payment; (2) the payment is used for official agency business; (3) the agency determines the official(s) who shall use the payment; and (4) the agency memorializes the payment in a written public record.

REGULATORY ACTION

Repeal and readopt 2 Cal. Code Regs. Section 18944.2: Because numerous revisions to Regulation 18944.2 are being proposed, the Commission is considering repeal of the current regulation and adoption of a new regulation. The proposed changes to Regulation 18944.2 seek to improve disclosure of gifts to state and local agencies and would add certain restrictions on payments for travel accepted by an agency under the regulation. The proposed changes may also add definitions pertinent to the regulation.

During the Commission's prenotice discussion of the regulation at its March 13th meeting, the Commission provided notice of its intention to repeal and readopt 2

Cal. Code of Regulations Section 18944.2, with the understanding that there would be modifications to the noticed language. Updated regulatory language will be provided for public comment no later than April 28th, ten days before the Commission's May 8th meeting.

The Commission will consider a variety of changes to Regulation 18944.2 to update and improve the disclosure of gifts to an agency. Under the existing regulation, an agency is required to document its receipt of gifts in a memorandum kept in the agency's own files in the case of a state agency. Under the proposed changes, gifts to state agencies would be reported to the FPPC and disclosure of these gifts would be posted on the internet. Gifts to local agencies would be reported to a Statement of Economic Interest filing officer outside the agency and may also be posted on the internet. Further, the changes may provide that the agency's written record of the gift is a public record subject to inspection and copying under Section 81008(a).

The Commission will consider changes to the regulation stating what information to report about the gift such as: a description of the gift, the date received, the amount, the name and address of the donor, and the agency's use of the payment. If a gift to an agency is made up of donated funds raised for the purpose of making a gift to an agency, the names and amounts given by the underlying donors of the funds may be required to be disclosed.

In addition, the Commission will consider new restrictions on gifts of travel payments to an agency. The Commission may consider some or all of the restrictions contained in the noticed language, with modifications, or other provisions concerning travel payments to an agency. The changes may propose that an agency may not accept a payment for travel under Regulation 18944.2 for certain specified officials. If adopted, certain officials could no longer receive travel payments as a gift to their agency under Regulation 18944.2, not reported on their statement of economic interests. They could, however, still receive travel payments under other provisions of the Act, which are reported on the official's statement of economic interests and subject to applicable limits, such as Sections 89506, 89513, and Regulation 18950.1. The changes may also provide that an agency may not accept a payment for travel that exceeds certain amounts, such as the agency's own policy on reimbursement rates or the Internal Revenue Service rates for reimbursement of travel expenses. The regulation may add provisions concerning the authorization for agency personnel traveling on private funds given to the agency. In addition, the regulation may address whether the agency is required to physically receive funds given by a third party for agency travel, or whether the third party may make travel payments to an airline or hotel directly.

In addition, the proposed changes may provide that an agency may only accept passes or tickets if they fit within the requirements of Regulation 18944.1, clarifying that passes or tickets are not also analyzed under Regulation 18944.2.

SCOPE

As noted above, during the Commission's prenotice discussion of the regulation at its March 13th meeting, the Commission provided notice of its intention to repeal and readopt 2 Cal. Code of Regulations Section 18944.2, with the understanding that there would be modifications to the noticed language. Accordingly, the Commission may adopt or reject all or part of the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulatory action will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulatory action will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulatory action will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act (Gov. Code Secs. 81000–91014).

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code Sections 82028, 82030, 82044, 87100, 87103, 87207, 87302 and 89501 through 89506.

CONTACT

Any inquiries should be made to Hyla P. Wagner, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov>, and updated regulatory language will be provided for public comment no later than April 28th, ten days before the Commission's May 8th meeting.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **May 8, 2008**, at the offices of the Fair Political Practices Commission, 428 J Street, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **May 6, 2008**.

BACKGROUND/OVERVIEW

Sections 89510–89518 of the Act restrict the personal use of campaign funds. An expenditure of campaign funds conferring a substantial personal benefit on a candidate; paying for a personal gift; or paying for the travel or accommodations of a candidate, elected officer, or anyone with the authority to approve the expenditure of campaign funds must be directly related to a political, legislative, or governmental purpose (a “PLG”). (Sections 89512(b) and 89513.) Furthermore Section 84211(k)(4) of the Act requires a “brief description” of the consideration for which certain expenditures are made.

Section 84104 of the Act requires candidates, treasurers, and elected officers to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that statements were properly filed, and to otherwise comply with the Act’s campaign disclosure requirements. Providing more specific recordkeeping requirements, Regulation 18401 establishes different levels of recordkeeping for (1) contributions, receipts, or expenditures of less than \$25; (2) contributions of \$25 or more, but less than \$100, and other receipts of \$25 or more; (3) contributions of \$100 or more; and (4) expenditures of \$25 or more.

In February 2008, the Commission voted to adopt Regulation 18421.7 and to amend Regulation 18401, effective July 1, 2008. Specifically, the Commission adopted Regulation 18421.7 requiring candidate controlled committees reporting expenditures for gifts, meals, and out-of-state travel to describe the PLG and to disclose basic and brief information such as the dates of the expenditures, the location of travel or a meal, the number of individuals for whom an expenditure paid, and the recipient of a gift. The Commission also adopted a related amendment to Regulation 18401 re-

quiring committees to document expenditures for gifts, meals, and out-of-state travel in a dated memorandum and to retain the names of those individuals for whom expenditures for meals or out-of-state travel were paid.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18421.7 and Amend Cal. Code Regs. Section 18401:

The Commission will consider three further revisions to the language adopted in February, 2008.

In-State Travel — The Commission will consider expanding Regulation 18421.7 to in-state travel.

Increasing Recordkeeping Thresholds — The Commission will consider increasing the recordkeeping thresholds in Regulation 18401.

Identifying the Recipient of a Gift — The Commission will consider the threshold for requiring committees to name the recipient of a gift under Regulation 18421.7(a)(1) and consider language interpreting these identification requirements if the recipient of the gift has not been determined within the reporting period in which the expenditure was made and must be reported.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 84211, 84303, and 84104.

CONTACT

Any inquiries should be made to Brian G. Lau, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id.351>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3434, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on December 21, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than June 18, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on February 4, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later June 18, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on February 11, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later June 18, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on February 22, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than June 18, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on March 12, 2008. The Department proposes to continue the regulation as amended and to complete the

amendment process by submission of a Certificate of Compliance no later than June 18, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before May 19, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendments of 3434(b) established additional portions of Alameda, Contra Costa, Marin, Monterey, San Mateo, Santa Clara and Santa Cruz counties as regulated areas. Subsequent amendments of 3434(b) also removed the Danville area of Contra Costa County. There is no existing, comparable federal regulation or statute regulating the intrastate movement.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is required for Section 3434 under Section 17561 of the

Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to 0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new busi-

ness or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

**TITLE 17. CALIFORNIA INSTITUTE
FOR REGENERATIVE MEDICINE**

NOTICE OF PROPOSED REGULATION AMENDMENTS

California Code of Regulations

Title 17. — Public Health

**Division 4 — California Institute For
Regenerative Medicine**

Chapter 3, Sections 100304, 100306, and 100308

Date: April 4, 2008

Deadline for Submission of Written Comment: May 19, 2008. — 5:00 p.m.

Hearing Date: None scheduled.

Subject Matter of Proposed Amendments:
**Intellectual Property Requirements for Non-Profit
Organizations**

Sections Affected:

The proposed regulatory action amends Chapter 3 and sections 100304, 100306 and 100308 of Title 17 of the California Code of Regulations.

Authority: Article XXXV of the California Constitution and Health and Safety Code section 125290.40, subdivision (j).

Reference: Section 125290.30, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in early 2005 with the passage of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens’ Oversight Committee (“ICOC”) is the 29-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non-profit academic and research institutions, patient advocacy groups and the biotechnology industry.

Sections 100300–100310 comprise the first of two CIRM intellectual property policies — for non-profit grantees. These regulations are designed to meet the dual goals of academic openness and the need to bring scientific advances to the public via commercialization. A primary objective of the regulations is to promote sharing of all types of intellectual property created as a consequence of CIRM funding for use in research conducted by both academic and commercial research and development organizations. Through the sharing of CIRM-funded data, knowledge, biomedical materials and patented inventions, CIRM strives to promote the general advancement of stem cell research and regenerative medicine. Another objective of the regulations is to facilitate the commercialization of CIRM-funded discoveries without impeding the progress of stem cell research. To facilitate the translation of scientific discoveries to medical therapies, these regulations recognize the importance of transferring research results in the public interest through effective communication and collaboration with commercial entities with appropriate expertise, resources and capacity. Finally, the regulations provide a financial benefit to the State of California through revenue sharing in the event that CIRM-funded discoveries lead to valuable diagnostics and/or medical therapies.

The second set of policies addressing intellectual property apply to for-profit grantees (sections 100400–100410) and were recently approved by the Office of Administrative Law. The proposed amendments in this regulatory action are intended to harmonize the two policies on key matters.

Specifically, the proposed amendments describe the requirements for sharing Publication-related Biomedical Material and the process and procedures for obtaining alternatives to this sharing requirement. Also, the proposed amendments require exclusive licensees of non-profit grantees to abide by the access and pricing requirements of Title 17, California Code of Regulations section 100407. Finally, the amendments clarify the formula to be used in providing proportional return to the state from licensing revenues.

Technical, Theoretical or Empirical Studies, Reports or Documents:

None.

Submittal of Comments:

Any interested party may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on May 19, 2008. Comments regarding this proposed action may also be transmitted via e-mail to nonprofitpregs@cirm.ca.gov or by facsimile transmission to (415) 396-9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, he or she must do so in writing no later than May 2, 2008.

Effect on Small Business:

CIRM has determined that the proposed regulatory action has no impact on small businesses. The regulations implement conditions on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private non-profit institutions, as well as large for-profit institutions. As such, the regulations are not expected to adversely impact small business as defined in Government Code section 11342.610.

Impact on Local Agencies or School Districts:

CIRM has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. CIRM has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

Costs or Savings to State Agencies:

CIRM has determined that no savings or increased costs to any agency will result from the proposed regulatory action.

Effect on Federal Funding to the State:

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulatory actions.

Effect on Housing Costs:

CIRM has made an initial determination that the proposed actions will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

CIRM has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California Businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses:

CIRM has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on the Creation, Elimination, or Expansion of Jobs:

CIRM has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Consideration of Alternatives:

CIRM must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the regulatory action.

Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

After the close of the comment period, CIRM may make the regulation permanent if it remains substantially the same as described in the Policy Statement Over-

view. If CIRM does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; inquiries regarding the rulemaking file; and questions on the substance of the proposed regulatory action may be directed to:

C. Scott Tocher, Counsel to the Vice–Chair
California Institute For Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396–9100

Questions may also be directed to:

Pat Becker, Senior Executive Assistant
California Institute for Regenerative Medicine
(415) 396–9100

The Notice of Proposed Regulatory Adoption, the Initial Statement of Reasons and any attachments, and the proposed text of the regulations are also available on CIRM’s website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above.

**TITLE 17. CALIFORNIA INSTITUTE
FOR REGENERATIVE MEDICINE**

NOTICE OF PROPOSED REGULATION AMENDMENTS

**California Code of Regulations
Title 17. — Public Health
Division 4 — California Institute For
Regenerative Medicine
Chapter 4**

Date: April 4, 2008

**Deadline for Submission of Written Comment: May
19, 2008 — 5:00 p.m.**

Hearing Date: None scheduled.

**Subject Matter of Proposed Amendments:
Intellectual Property and Revenue Sharing
Requirements for For–Profit Organizations**

Sections Affected:

The proposed regulations amend Chapter 4 of Title 17 of the California Code of Regulations, sections 100407 and 100408.

Authority: Article XXXV of the California Constitution and Health and Safety Code section 125290.40, subdivision (j).

Reference: Sections 125290.30, 125290.40, 125290.55, 125300, Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in early 2005 with the passage of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens’ Oversight Committee (“ICOC”) is the 29–member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non–profit academic and research institutions, patient advocacy groups and the biotechnology industry.

The mission of the CIRM is to foster and promote stem cell research with the aim of improving human health. A secondary goal is to strengthen California’s biotechnology industry and create collateral economic benefits such as high–paying jobs and increased tax revenues. CIRM believes that the funding of commercial research organizations focused on stem cell–related projects is a key component to achieving the overall mission of the Institute. Increased interest by the commercial research sector in stem cell–related research projects and the successful translation of basic research discoveries into commercial products for public use are primary success indicators (among others) that can be used by CIRM to track benefits of commercial sector funding.

Public–private partnerships involving research and development activities among industry, government, and universities can play an instrumental role in introducing key new technologies and valuable products to the commercial marketplace. Experience shows

that partnerships involving government participation in research and development activities with industry, universities, and government laboratories can greatly facilitate the translation of basic research discoveries to products with societal benefits.

Historically, the involvement of the for-profit research sector has been essential for the discovery and development of medical therapies and diagnostics. The California Stem Cell Research and Cures Act provides for the funding of for-profit research organizations (companies) in California to advance the development of products for public use. The current regulations, sections 100400–100410, compose the CIRM Intellectual Property and Revenue Sharing Requirements for For-Profit Organizations, approved by the Office of Administrative Law in March of 2008, and provide terms and conditions to for-profit recipients of CIRM funds.

The proposed amendments apply to section 100407, Access Requirements for Products Developed by For-Profit Grantees, and section 100408, Revenue Sharing. Section 100407 provides the terms applicable to grantees and their exclusive licensees when a Drug is commercialized in California. This regulation requires a Grantee or its Exclusive Licensee to submit an access plan to CIRM, describes the plan's elements, and requires provision of the Drug to certain purchasers at certain benchmark prices identified in the California Discount Prescription Drug Program ("CDPDP") (or its successor program). Based on comments received at the time the current regulation was approved by the ICOC in December of 2007, the ICOC approved the proposed amendments to initiate the process of receiving public comment on them. The proposed amendments clarify the timing of the submission of a proposed access plan to the CIRM, state the plan will be subject to the approval of CIRM after a public hearing, and clarify the application of CDPDP benchmarks in the event the program is repealed.

Section 100408 describes the revenue sharing requirements for Grantees. Subdivision (b) of the existing regulation describes revenue sharing when the Grantee self-commercializes a product (as opposed to licensing an invention, covered by subdivision (a)). The regulation is intended to apply a tiered approach to payback to the state based on revenue triggers. As stated in the introductory language of subdivision (b), the royalty payments in the subsections that follow it are payable regardless of whether a CIRM-funded Patented Invention is involved. In subdivision (b)(2), the payments described are triggered when the described milestones are reached from a self-commercialized CIRM-funded Patented Invention. Because that language may appear to contradict the language in subdivision (b), which applies the triggers regardless of a CIRM-funded Patented Invention, the proposed amendments clarify the

intent of the regulation by referring to products resulting from "CIRM-funded Research."

Technical, Theoretical or Empirical Studies, Reports or Documents:

None.

Submittal of Comments:

Any interested party may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on May 19, 2008. Comments regarding this proposed action may also be transmitted via e-mail to forprofitipregs@cirm.ca.gov or by facsimile transmission to (415) 396-9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, he or she must do so in writing no later than May 2, 2008.

Effect on Small Business:

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Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

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Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; inquiries regarding the rulemaking file; and questions on the substance of the proposed regulatory action may be directed to:

C. Scott Tocher, Counsel to the Vice–Chair
California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396–9100

These questions may also be addressed to:

Pat Becker, Senior Executive Assistant
California Institute for Regenerative Medicine
(415) 396–9100

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Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication April 4, 2008
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Zone 7 Altamont Water Treatment Plant
and Pipeline Project
Alameda County
2080–2008–010–03

The Department of Fish and Game (Department) received a notice on March 14, 2008 that the Zone 7 Water Agency (Zone 7) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction and operation of a water treatment plant, a pipeline and pumping station for raw water delivery, a treated water pipeline, and improvements to Dyer Rd. in Alameda County (Project). Project activi-

ties associated with staging and construction will result in temporary impacts to approximately 26.8 acres of habitat suitable for the San Joaquin kit fox (*Vulpes macrotis mutica*) and permanent impacts to approximately 24.6 acres of habitat suitable for the San Joaquin kit fox.

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (81420–2007–F–0004)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on February 28, 2008 which considered the effects of the project on the Federally endangered and State threatened San Joaquin kit fox. Pursuant to California Fish and Game Code Section 2080.1, Zone 7 is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Zone 7 will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

Tracking Number 2080–2008–008–01

PROJECT: Aquatic Habitat Conservation Plan
LOCATION: Humboldt County and Del Norte County, California
NOTIFIER: Green Diamond Resource Company

BACKGROUND

The Green Diamond Resource Company (GDRCo) proposes to implement a fifty-year Aquatic Habitat Conservation Plan (AHCP) that will enable it to carry out forest management activities including timber operations on more than 400,000 acres of commercial timberland owned by GDRCo in Humboldt County and Del Norte County in Northern California (Project). Activities proposed under the AHCP include harvesting and transporting timber, timber stand regeneration and improvement, road construction, maintenance and decommissioning, rock pit construction and use, and water drafting activities for dust abatement and fire suppression. The AHCP also identifies activities GDRCo will implement to minimize and fully mitigate the adverse environmental effects of GDRCo’s timber operations to aquatic habitats related to woody debris recruitment, shade, surface erosion, and mass wasting.

Implementation of the Project will result in take of coho salmon (*Oncorhynchus kisutch*) of the Southern

Oregon/Northern California Coast ESU (SONCC coho salmon). SONCC coho salmon is listed as threatened under both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). Take of eggs, fry, juvenile and/or adult SONCC coho salmon may occur as a result of Project activities that cause direct mortality from the operation of equipment within streams, discharge considerable amounts of sediment to coho habitat, substantially alter stream flows, discharge hazardous contaminants to coho habitat, or contribute to long-term reduction in habitat or maintenance of low quality habitat.

Because the Project has the potential to take species listed under the ESA, GDRCo prepared the AHCP in support of an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the ESA from the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS), and on June 12, 2007, NMFS issued ITP No. 1613 for the Project. The ITP requires full implementation of and compliance with all conservation measures listed in the AHCP for avoidance, minimization and mitigation for impacts to SONCC coho salmon, as well as compliance with the terms and conditions in the associated Implementing Agreement (IA), all of which were incorporated by reference as conditions of the ITP. Subsequent to issuance of the ITP, on March 18, 2008, NMFS approved Minor Modification No. 1 to the AHCP, as permitted by section 12.1 of the IA; the modifications enhanced and clarified certain protective activities contained in the Operating Conservation Plan, section 6.2 of the AHCP, and have been incorporated by reference as conditions of the ITP. The Minor Modification also specifies the request for funding assurances under the IA and AHCP.

On March 4, 2008, the Director of DFG received a request from GDRCo pursuant to Section 2080.1 of the Fish and Game Code, requesting a determination that the ITP, which requires implementation of and compliance with the IA and AHCP, including Minor Modification No. 1, is consistent with CESA.

DETERMINATION

Based on the terms and conditions in NMFS’ ITP No. 1613, which include the requirement to fully implement the AHCP including Minor Modification No.1, DFG has determined that the ITP is consistent with CESA because the measures described in the Operating Conservation Plan for avoidance, minimization, and mitigation meet the conditions set forth in Fish and Game Code section 2081(b) and (c) for authorization of incidental take of species protected under CESA. Important to the Department’s findings are measures from the ITP,

AHCP, IA, and Minor Modification which address expected or potential impacts to the SONCC coho salmon. These measures include, but are not limited to, the following requirements:

1. The AHCP, in concert with the additional measures provided in the Minor Modification, sufficiently minimizes and fully mitigates the impacts of taking coho salmon by the mechanisms related to woody debris recruitment, shade, surface erosion, and mass wasting. Of these impacts, the delivery of fine sediment to aquatic habitat remains the most difficult to address. Although sediment delivery from AHCP activities will continue to impair the emergence success of coho salmon fry, it is expected to be at a lesser rate than the present condition.

DFG agrees rearing habitat is the dominant factor limiting the size of coho salmon populations in the action area, due to limited quantity and quality of pools needed for both summer/fall juvenile rearing and juvenile overwintering habitat. Given the expected response of these habitats to AHCP implementation, most notably in increased pool frequency, depth, and complexity, we expect implementation of the AHCP measures, in concert with the measures of the Minor Modification, to allow for increases in juvenile coho salmon abundance.

Because the AHCP will result in improved rearing habitat conditions, populations of SONCC coho salmon in the action area should experience increases in abundance, productivity and distribution commensurate with the expected improvements in freshwater life history habitat and increased availability of formerly inaccessible or degraded habitat.

The following measures, summarized from the GDRCo Operating Conservation Plan (OCP), when complemented with the Minor Modification, help illustrate how the AHCP prescriptions for Class I, and Class II riparian management zones (RMZs), Class III Equipment Limitation Zones (ELZs), roads, and mass wasting, result in consistency with CESA:

- GDRCo Class I RMZ widths are at least 150 feet slope distance, divided into inner and outer zones. During the life of the AHCP, Green Diamond will carry out only one harvest entry into Class I RMZs
- GDRCo will retain at least 85% overstory canopy closure within the inner zone and at least 70% canopy overstory closure will be retained within the outer zone. Within the RMZ, Green Diamond will harvest no trees that contribute to maintaining bank stability.
- To ensure adequate recruitment of large woody debris to Class I watercourses, GDRCo will use the following criteria to identify trees within the RMZ as potential candidates for harvest due to their low likelihood of recruitment to the watercourse: Tree has an impeded "fall-path" to

the stream (e.g., upslope family members of a clonal group blocked by downslope stems); or Tree or the majority of the crown weight of the tree is leaning away from stream and the tree is not on the stream bank or does not have roots in the stream bank or stream; or The distance of the tree to the stream is greater than the height of the tree; or tree is on a low gradient slope such that gravity would not carry the fallen tree into the stream or objects such as trees and large rocks impede its recruitment path; or Tree is not on an unstable area or immediately downslope of an unstable area.

- Any ground disturbance caused by management activities that is larger than 100 square feet within an RMZ will be mulched and seeded or otherwise treated to reduce the potential for sediment delivery from sheet and gully erosion.
- GDRCo will not carry out salvage within the inner zone of the Class I RMZ. If any part of the salvageable piece is in the inner zone, the entire piece will be left. Green Diamond will not carry out salvage within an identified floodplain or CMZ. Within the outer zone of the Class I RMZ Green Diamond will conduct salvage operations only of downed trees and only if specific criteria are met:
- GDRCo Class II RMZ widths are at least 75 or 100 feet slope distance, based on the size and location of the watercourses (first or second order watercourses) depending on slope, divided into inner and outer zones. During the life of the AHCP, Green Diamond will carry out only one harvest entry into Class II RMZs
- GDRCo will retain at least 85% overstory canopy closure within the inner zone and at least 70% canopy overstory closure will be retained within the outer zone. Within the RMZ, Green Diamond will harvest no trees that contribute to maintaining bank stability.
- The same strategy used in Class I RMZs to identify trees within the as potential candidates for harvest due to their low likelihood of recruitment to the watercourse will be used in the lower reaches of Class II watercourse RMZs tributary to Class I watercourses.
- Ground disturbance treatments and salvage restrictions in Class II RMZs apply similarly to those for Class I RMZs.
- Green Diamond will apply one of two tiers of protection measures within Class III watercourses in accordance with Hydrographic Planning Areas (HPAs) and slope gradients.
- Within Tier A (generally gentler slopes and more stable geology), a 30-foot wide equipment

exclusion zone (EEZ) will be established except for a) existing roads; b) road watercourse crossings; and c) skid trail watercourse crossings. LWD on the ground (not including felled trees) will be retained and fire will not be ignited as part of site preparation,

- Within Tier B (generally steeper slopes and less stable geology), a 50-foot wide equipment exclusion zone (EEZ) will be established except as described for Tier A above. All hardwoods and nonmerchantable trees will be retained within the Tier B EEZ except where necessary to create cable corridors or for the safe falling of merchantable trees. LWD on the ground (not including felled trees) will be retained and fire will not be ignited as part of site preparation, and conifers will be retained where they contribute to maintaining bank stability or if they are acting as a control point in the channel. A minimum average of one conifer 15 inches dbh or greater per 50 feet of stream length within the EEZ will be retained.
- Slope Stability Measures provisions in the AHCP include comprehensive identification and protection of steep streamside slopes based on HPAs. Restrictions on silviculture and canopy retention apply to an inner Riparian Slope Stability Management Zone and an outer Slope Stability Management Zone. GDRCo's road construction will also avoid these zones where feasible. Where such zones cannot be avoided or where major road reconstruction is required, the road alignment within a RSMZ or SMZ will be evaluated by a Professional Geologists and a Registered Professional Forester with experience in road construction in steep forested terrain.
- Similar requirements to the above slope stability measures also apply to headwall swales, deep-seated landslides, and shallow rapid landslides, again based on HPAs.
- GDRCo's AHCP also includes a comprehensive road management plan designed to reduce road sediment delivery to watercourses throughout the AHCP area over the life of the plan, based on a road assessment process and priority for repair. The AHCP requires timely road-related sediment source identification and treatment, and guarantees adequate funding to treat sediment sources on GDRCo's approximately 4,000 miles of permanent and seasonal logging roads.

2. The AHCP, in concert with the additional measures provided in the Minor Modification sufficiently demonstrates how the adaptive management program will ensure that take of SONCC coho salmon is minimized

and fully mitigated over the fifty-year term of the AHCP.

- Monitoring and Adaptive Management: The AHCP requires GDRCo to comprehensively monitor the effectiveness of the plan's aquatic conservation measures. When monitoring the effectiveness of the conservation measures demonstrates the measures are not succeeding, adaptive management measures will be triggered and the AHCP adjusted, within the range of changes identified in the AHCP, to ensure the conservation strategy will meet the AHCP objectives. The AHCP also requires an Adaptive Management Reserve Account (AMRA) be available to fund any necessary adjustments over the term of the Plan.

3. There is an agreement for funding assurances that will provide DFG with a \$2.5 million dollar letter of credit for the first fifteen years of the AHCP, reduced thereafter for the remainder of the AHCP.

With this consistency determination, GDRCo does not need to obtain authorization from DFG under CESA for take of SONCC coho salmon that occurs in carrying out the Project, provided GDRCo implements the Project as described in the AHCP, including Minor Modification No.1, and complies with the mitigation measures and other conditions contained in all the relevant documents. However, if the Project as described in the AHCP and Minor Modification No. 1, including the mitigation measures therein, changes, or if the Service amends or replaces the AHCP or ITP, GDRCo will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or an incidental take permit (in accordance with Fish and Game Code section 2081).

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

(Continuation of California Notice Register 2008, No. 8–Z, and Meetings of February 8 and March 7, 2008.)

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice—changes are shown in **bold type**.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, regarding ocean salmon sport fishing.

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

The text in bold below replaces the text from original Initial Statement of Reasons (ISOR) and Informative Digest and provides a summary of a PFMC inseason action and the three options developed for public review at the PFMC meeting in Sacramento on March 9–14, 2008.

The PFMC has determined that Sacramento River Fall Chinook (SRFC) merits further protection in 2008 as the stocks are projected to be at a record low abundance level in 2008. The PFMC Salmon Technical Team (STT) updated the estimate of SRFC Chinook escapement based upon new information. The

revised projection lowers the 2008 SRFC abundance forecast to 54,570 SRFC adults. This new estimate assumes no further fishing in 2008 and is much lower than previous estimates.

The NMFS has determined that poor ocean conditions are a major factor of the low 2008 SRFC abundance. The NMFS also expects these poor conditions to continue affecting subsequent years' SRFC escapements in the near future. Also the 2008 SRFC adult abundance is expected to be well below the lower boundary of the FMP conservation goal of 122,000 to 180,000 SRFC adult escapement.

With this new information, the PFMC voted to recommend closure of all ocean salmon fisheries until the final 2008 federal regulations are enacted on May 1, 2008 to provide maximum protection for SRFC. This early season closure is a separate Commission emergency action already underway.

On March 14, 2008, the PFMC developed three 2008 season structures for public review to severely reduce or eliminate fishery impacts on SRFC. The PFMC options allow for a very limited 2008 season, a 2008 season with no fishing after March 31, 2008 with 2009 early season opening dates, and a season with no fishing after March 31, 2008 and no 2009 opening dates. The final PFMC regulation recommendations will be made on April 11, 2008 in Seattle, Washington.

Under all three options, the reference to Section 1.74 in subsection 27.80(a)(1) is proposed to be removed as salmon report cards are no longer required in ocean waters north of Horse Mountain and additional minor changes are proposed for regulation clarity. The specific differences from current regulations are discussed in the following paragraphs.

Option I

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season is open May 24 through May 26, 2008, July 4 through July 6, 2008, and August 28 through August 31, 2008 (113 fewer days than in 2007). The area between Horse Mountain and Point Arena (Fort Bragg) is open February 16 to March 31 (or as soon thereafter as the emergency regulations are approved), May 24 through May 26, 2008, July 4 through July 6, 2008, and August 28 through August 31, 2008 and will open in 2009 on February 14, 2009 (213 fewer days than in 2007). The area between Point Arena and Pigeon Point (San Francisco, Monterey, and Moss Landing) is open May 18 through May 26, 2008 and will open in 2009 on April 4, 2009 (209 fewer days than in 2007). The area south of Pigeon Point (Monterey and Moss Landing) is open

May 18 through May 26, 2008 and will open in 2009 on April 4, 2009 (175 fewer days than in 2007).

Option II

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the season will be closed for all of 2008 (123 fewer days than in 2007). The area between Horse Mountain and Point Arena (Fort Bragg) is open February 16 to March 31 (or as soon thereafter as the emergency regulations are approved) and will open in 2009 on February 14, 2009 (223 fewer days than in 2007). The area between Point Arena and Pigeon Point (San Francisco, Monterey, and Moss Landing) is closed for all of 2008 and will open in 2009 on April 4, 2009 (219 fewer days than in 2007). The area south of Pigeon Point (Monterey and Moss Landing) is closed for all of 2008 and will open in 2009 on April 4, 2009 (184 fewer days than in 2007).

Option III

This option is the same as Option III except there are no 2009 early season openers proposed. Any 2009 openers will be decided in April 2009 by the PFMC and Commission.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at UC Davis, Bodega Bay Marine Laboratory, Lecture Hall, 2099 Westside Road, Bodega Bay, California, on Friday, April 11, 2008 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, April 15, 2008, at 10:00 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 14, 2008. All comments must be received no later than April 15, 2008 at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John Carl-

son, Jr., or Sherrie Koell at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Under a normal season ocean salmon anglers contribute about \$110,400,000 in direct revenues to the State's business sector. This is based on a 2006 US Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California. Adding the indirect and induced

effects of this initial revenue contribution and the total benefit to California's economy is normally about \$167,000,000. This is equivalent to about \$63,000,000 in total wage earnings to Californians, or about 1,400 jobs in the state. Depending on which option the PFMC adopts and implements in May 2008, the following statewide impacts to businesses may occur.

Option I

In general, Option I would result in an 89.5 percent reduction in the available days of ocean salmon fishing compared to a normal fishing season. Using national data on recreational angler expenditures on goods and services, we estimate the direct loss to the business community of about \$98,900,000. Because of the indirect and induced affects of this loss, California's total economic output is estimated to be reduced \$149,500,000. Adverse impacts to total wage earnings and California jobs would be about \$56,100,000 and 1,252, respectively.

Option II and III

Option II and III would result in a 94.3 percent reduction in the available angling days for ocean salmon. Using national data on recreational angler expenditures on goods and services, the direct loss to the business community is estimated to be about \$104,200,000. Adverse impacts to total wage earnings and California jobs would be about \$157,500,000 and 1,319, respectively.

The Commission has made an initial determination that the amendment of this regulation may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
- (ii) consolidation or simplification of compliance and reporting requirements for businesses;
- (iii) the use of performance standards rather than prescriptive standards; or
- (iv) exemption or partial exemption from the regulatory requirements for business.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Option I

In general, Option I would result in an 89.5 percent reduction in the available days of ocean salmon fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 1252 jobs.

Option II and III

Option II would result in a 94.3 percent reduction in the available angling days for ocean salmon under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 1319 jobs.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. **There are no new reporting requirements imposed as a result of the proposed regulations.**

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

There are no new reporting requirements to State agencies as a result of the proposed regulations. However, reduced recreational fishing opportunities would likely result in revenue impacts to the State, estimated to be up to \$2,993,165. This is due to reduced demand for recreational fishing licenses, permits, and or stamps, normally purchased from the State and increased enforcement for the 2008 ocean salmon season.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PETITION DECISIONS

DEPARTMENT OF MANAGED HEALTH CARE

ACTION: Notice of Decision on Petition to Adopt Regulations

SUBJECT: Petition by Salvatore D'Anna requesting adoption of regulations regarding the federal; Adopting Section 1300.71.39 in Title 28, California Code of Regulations; Control No. 2008-1536.

PETITIONER

Salvatore D'Anna's petition for rulemaking action (Petition) was received by the Department on February 25, 2008. Pursuant to the requirements of Government Code section 11340.7, the Department provides this response to the Petition.

CONTACT PERSON

Inquiries concerning this decision may be directed to Emilie Alvarez, Regulations Coordinator, Department of Managed Health Care, Office of Legal Services, by mail at: 980 9th Street, Suite 500, Sacramento, CA 95814, by telephone at: (916) 322-6727, or by e-mail at: ealvarez@dmhc.ca.gov or regulations@dmhc.ca.gov.

AVAILABILITY OF PETITION

The petition for the adoption of regulations is available upon request directed to the Department's Contact Person.

AUTHORITY

Under authority established in the Knox–Keene Act¹, including but not limited to sections 1343, 1344 and 1346, the Department of Managed Health Care (Department) may adopt, amend and rescind regulations as necessary to carry out the provisions of the Act.

DETERMINATION ON THE PETITION

The Petition requests that the Department initiate rulemaking action to adopt a regulation “to require disciplinary action against any health plan that violates the Privacy Protections of [HIPAA].” The Health Insurance Portability and Accountability Act (HIPAA) is federal law that establishes standards for ensuring the confidentiality of personal medical information.

Necessity: Government Code section 11342.2 establishes the necessity standard for rulemaking actions: “. . .no regulation adopted is valid or effective unless. . .reasonably necessary to effectuate the purpose of the statute [it is interpreting, making specific or otherwise carrying out.]” California law establishing requirements to protect the privacy of personal medical information is set forth in Civil Code section 56.10 *et seq.* The Knox–Keene Act already establishes violations of Civil Code section 56.10 as a basis for disciplinary action. See Health and Safety Code section 1386 subsection (b). Therefore, the requested regulation is not necessary.

Authority: The Department administers state law applicable to health care service plans, that is, the state law set forth in the Knox–Keene Act. As noted at Page 1 of the Petition, the grounds for disciplinary action by the Department against a health plan are established by state statute, specifically Section 1386(b) of the California Health and Safety Code. Adding another ground for discipline to this statute would require legislation to amend that statute, rather than rulemaking action by the Department. In addition, as noted above and in the Petition, the laws that constitute HIPAA are federal statutes. The Department does not administer or enforce federal law and, therefore, does not adopt regulations implementing federal law.

Duplication: As noted in the petition, Health and Safety Code section 1386, subdivision (b) provides that violation of the confidentiality requirements of California Civil Code section 56.10 constitute grounds for discipline of a health care service plan by the Department. The rulemaking action suggested by the Petition would be duplicative of requirements and remedies, which the Knox–Keene Act already provides, for a plan’s failure

to maintain confidentiality of medical information. See Health and Safety Code sections 1364.5 and 1386, subdivision (b)(15).

For the reasons set forth above, the Department has determined not to initiate the rulemaking action requested in the Petition on the basis that: the requested rulemaking action is not necessary to clarify, implement or make specific any requirements of the Act; it would duplicate requirements already established and implemented through other provisions of law; and the addition of the requested grounds for discipline would require legislative amendment.

Petitioner’s interest in the Department’s rulemaking process is appreciated.

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

Writers Direct Dial: 415/396–9122

TPachter@cirm.ca.gov

March 21, 2008

By U.S.P.S. and Electronic Mail

John R. Valencia

Wilke, Fleury, Hoffelt, Gould & Birney, LLP

400 Capitol Mall, 22nd Floor

Sacramento, CA 95814

jvalencia@wilkefleury.com

Re: Petition for Adoption of Regulation Defining “California Supplier”

Dear Mr. Valencia,

On January 15, 2008, the California Institute for Regenerative Medicine (“CIRM”) received a petition (the “Petition”) from you on behalf of your client, Invitrogen Corporation (“Petitioner”). Petitioner requested CIRM undertake rulemaking proceedings to adopt a regulation defining “California Supplier” pursuant to Health and Safety Code section 125290.4(j) and Government Code section 11340.6.

CIRM’s governing board, the Independent Citizens Oversight Committee (“ICOC”) considered the Petition, the recommendation of Staff, and the comments it received from the public. The ICOC granted the Petition and authorized Staff to initiate a rulemaking proceeding pursuant to Article 5 of the Government Code (commencing with section 11346).

Petitioner requested adoption of a new regulation to be added to Title 17 California Code of Regulations section 100500. The ICOC determined that the circumstances detailed in the Petition support the adoption of a regulation to define the term “California Supplier” found in Health and Safety Code section 12590.30(i) to help fulfill the goal of complying with the preference

¹ Health and Safety Code section 1340 *et seq.* References herein to the “Act” are to the sections of the Knox–Keene Act.

established in Proposition 71. Pursuant to Government Code section 11346.2, CIRM will notice the proposed regulation for public comment. Interested persons may direct questions to me and/or obtain a copy of the Petition upon request.

Sincerely,

/s/

Tamar Pachter
General Counsel

Cc: Office of Administrative Law

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**ACCEPTANCE OF PETITION TO REVIEW
ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Richard Smith, Staff Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Edmund Carolan
1412 McKinley Avenue
Woodland, CA 95695

Agency contact:

Timothy Lockwood,
Chief of Regulations and Policy Management
Branch
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 94283-0001

Please note the following timelines

Publication of Petition in Notice Register: April 4, 2008
Deadline for Public Comments: May 5, 2008
Deadline for Agency Response: May 19, 2008
Deadline for Petitioner Rebuttal: No later than 15 days
after receipt of the agency's response
Deadline for OAL Decision: August 4, 2008

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

1412 McKinley Ave
Woodland, CA 95695

January 28, 2008

Office of Administrative Law
300 Capitol Mall, Suite 250
Sacramento, CA 95814
ATTN: Chapter 2 Compliance Unit

***RE: Petition to the Office of Administrative Law for
Challenging an Alleged Underground Regulation.***

Dear Ms. Laspey:

Under the provisions of the California Code of Regulations (CCR), title 1, section 260, I am writing to request that the Office of Administrative Law (OAL) consider issuing a determination whether rules being used by the California Department of Corrections and Rehabilitation (CDCR) are underground regulations. The particular rules that I am seeking to have OAL issue a determination on can be found in the CDCR's Department Operational Manual (DOM) and pertain to hiring for employment. A electronic copy of the CDCR DOM can be found at the CDCR website: http://intranet/PED/Regulations-and-Policies/DOM/DOM_TOC.asp.

I have mailed a copy of this petition and the attachments to Mr. Timothy Lockwood, CDCR's Chief of Regulation and Policy Management Branch. Mr. Lockwood's contact information can be found below. I am also attaching a copy of Mr. Lockwood's response to my earlier petition in which I asked CDCR to consider adopting the select DOM sections in question as regulations. CDCR denied my request. Mr. Lockwood's response was published in the California Regulatory Notice Register 2008, Volume No.3-Z, January 18, Pages 73-74. While I did not request that CDCR consider

DOM section 31130.6.1 for adoption as a regulation in my initial petition, I have included that section of the DOM in this petition.

California Government Code section 19836 authorizes the California Department of Personnel Administration (DPA) to allow an individual, as part of the civil service hiring process, to be eligible for an above the minimum salary for a given classification based on several scenarios. This process is commonly referred to as a "hire above the minimum" or "HAM". CDCR DOM sections 31130.6, 31130.6.1, 31130.6.2 and 31130.6.3 (page attached) makes specific the rules that CDCR uses to administer a HAM. I contend that these four sections of the DOM are underground regulations as defined by section 250, title 1 of the CCR. I am requesting that OAL issue a determination on these four sections of the DOM.

The legal basis for believing that the above cited sections of the DOM are underground regulations is that these sections of the DOM appear to be a standard of general application to make specific the law pertaining to California Government Code section 19836. The purpose of the DOM is to promulgate policies and rules for the entire CDCR. My research did not find any statutory exemption from the APA being granted to CDCR for administering HAMs. Nor was I able to find any language pertaining to HAMs in the CCR, title 15 (Crime Prevention and Corrections).

Furthermore, I think that DOM sections 31130.6, 31130.6.2 and 31130.6.2 are underground regulations because CDCR acknowledges in their response to my petition (as published in California Regulatory Notice Register) that they do not have the authority to adopt regulations regarding HAMs. Instead, CDCR implies that its rules regarding HAMs are predicated on the attached DPA Memoranda 90-07, 90-07A and 2007-026.

While it appears to be convenient for CDCR to rely on memoranda issued by DPA for their authority to promulgate rules in the DOM, there appears to be a flaw in this argument. There is no explicit language contained in California Government Code section 19836 or in any other code section that I could find that would exempt the DPA from the California Administrative Procedure Act (APA) for the rules pertaining to HAMs. California Government Code section 19815.4 requires the director of DPA to adopt regulations ". . . affecting the purposes, responsibilities, and jurisdiction of the department. . .". I also reviewed CCR, title 2, division 1, chapter 3 and did not find any regulations promulgated by DPA for the administration of HAMs. Therefore, it appears that CDCR is basing its rules for HAMs on DPA memoranda which may be issued in violation of California Government Code section 11340.5 (a).

Notwithstanding the question of DPA's authority to promulgate the rules for HAMs through memoranda, it should be noted that two of the above cited sections of the CDCR DOM contain statements which contradict the information contained in the cited DPA memoranda. DOM section 31130.6 states that current state employees may not be considered for a HAM. Yet Memorandum 90-07 (Page 3) states that current state employees are eligible for a HAM. DOM section 31130.6.2 states that a HAM for non-delegated classifications requires DPA approval. However, DPA Memorandum 2007-06 (Page 2) states that departments are allowed to approve a HAM for *all* (emphasis added) new state employees. Therefore, even if DPA has the authority to promulgate rules with an exemption from the APA, CDCR is not emulating those DPA rules in its DOM.

Finally, I am led to think that many portions of the DOM are underground regulations based on the court ruling in *Tooma v. Rowland* as outlined in a previous OAL determination on an underground regulation being used by CDCR (OAL File # CTU 06-0628-01). I have to think that the DOM sections on which I am requesting OAL to issue a determination fit within the "substantial parts" of the DOM that the court found to be regulatory and ordered the CDCR to stop enforcing until compliant with the Administrative Procedure Act.

One of reasons I am seeking a determination is related to my filing of an employee contract grievance, pursuant to the Memorandum of Understanding between the State of California and the Service Employees International Union for Bargaining Unit 1. CDCR denied my grievance based on the rules in its DOM for administering HAMs.

Despite my own personal reason for this petition, there are a couple reasons of public importance that require a prompt resolution to this issue. First, it is unclear why an agency would put itself at a distinct disadvantage by establishing a rule that would hinder its ability to hire and recruit staff. CDCR has historically had a difficult time in recruiting health care providers. In part, this recruitment difficulty is because CDCR must compete with the Department of Mental Health, California Department of Veteran Affairs and other state agencies for health care providers who are willing to work in the public sector. However, my research indicates that no other state agency has formally adopted rules, through the APA, that govern the administration of a HAM to include the prohibition of a HAM being offered to a current state employee (DOM section 31130.6). Therefore, I am at a loss to understand the necessity of a rule that puts the dental and mental health chief at each prison at a disadvantage to other state agencies in recruiting and hiring health care providers.

The second issue of considerable public importance requiring prompt resolution to this situation is well documented and is related to the federal court. In June 2005, the federal court placed the entire administration and responsibility of CDCR Division of Correctional Health Care Services, to include all personnel issues, under the control of a court-appointed receivership. In the process of working to improve the CDCR medical system, the Receiver has had to focus heavily on improving human resource aspects of the medical system. The Receiver stated, “[B]ecause of the *abject levels of dysfunction and chaos* (emphasis added) in hiring, review, promotion and discipline, for examples, the Receiver’s team has spent countless hours on personnel issues. . . .”¹

While the federal court has removed the medical aspects from the dysfunction and chaos of the CDCR’s personnel operations, dental and mental health services continue to operate under the authority of CDCR. Furthermore, the Receivership for CDCR Medical Services will not last forever. If the CDCR (and DPA for that matter) do not improve its personnel operations by *legitimizing* its personnel rules and policies through the APA, the Receiver will be turning over the revamped Correctional Health Care Services to the same personnel system that created the “abject levels of dysfunction and chaos” in the first place. As the courts have found “[O]ne Purpose of the Administrative Procedure Act (APA) is to ensure that those persons or entities whom a regulation will affect have a voice in its creation. . . .”² Given the history of this subject, I have no doubt that involving a wider participation of parties, including people with knowledge and experience in health care administration, in the rule-making process has the potential to produce more effective rules for hiring health care providers into the CDCR.

If you need to contact me regarding this matter, I can be reached at 530-669-5940. Thank you for your time on this matter

Sincerely,

/s/

Edmund Carolan

c: Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883

¹ California Prison Health Care Receivership Corporation. “*Prison Medical Care System Reform Plan of Action*.” Pg 4, November 15, 2007. <http://www.cprinc.org>.

² California Advocates for Nursing Home Reform V. Bonta (App. 1 Dist 2003) 130 Cal Rptr.2d 823, 106 Cal. App 4th 498, as modified.

Sacramento, CA 94283-0001
Telephone (916) 341-7390

Attachments:

California Regulatory Notice Register 2008. Volume No. 3-Z, January 18, Pages 73-74.

California Department of Corrections and Rehabilitation. Department Operation Manual. Pg. 180.

Department of Personnel Administration
Memorandum 90-07. November 16, 1990.

Department of Personnel Administration
Memorandum 90-07A. December 7, 1990

Department of Personnel Administration
Memorandum 2007-026. September 25, 2007.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0222-07

BOARD FOR GEOLOGISTS AND
GEOPHYSICISTS

Code of Professional Conduct — Geology & Geophysics

This rulemaking amends the current code of professional conduct to specify the requirements for compliance with applicable laws and the circumstances in which a geologist or geophysicist has violated professional standards.

Title 16

California Code of Regulations

AMEND: 3065

Filed 03/26/2008

Effective 04/25/2008

Agency Contact: Patty Smith (916) 263-2233

File# 2008-0220-04

BOARD OF BARBERING AND COSMETOLOGY
Schedule of Administrative Fines

These regulatory amendments add fines to the existing Schedule of Administrative Fines with respect to cleaning and disinfecting pedicure equipment and in-

crease the fine amount for violation of section 982 (Sterilizing Electrolysis Equipment) from \$100 to \$500.

Title 16
California Code of Regulations
AMEND: 974
Filed 03/24/2008
Effective 04/23/2008
Agency Contact: April Oakley (916) 575-7102

File# 2008-0207-03
CALIFORNIA SCHOOL FINANCE AUTHORITY
State Charter School Facilities Grant

This action makes minor clarifications in the State Charter School Facilities Incentive Grant program.

Title 4
California Code of Regulations
AMEND: 10177, 10178, 10181, 10182, 10187, 10188, 10189
Filed 03/24/2008
Effective 04/23/2008
Agency Contact: Kristin Smith (916) 651-9479

File# 2008-0228-01
CALIFORNIA STATE LIBRARY
Conflict-of-Interest Code

The California State Library is amending its conflict of interest code found at section 55300, title 2, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on February 26, 2008.

Title 2
California Code of Regulations
AMEND: 55300
Filed 03/19/2008
Effective 04/18/2008
Agency Contact: Victor Pong (916) 445-9595

File# 2008-0219-04
DEPARTMENT OF CORPORATIONS
CRMLA Nontraditional, Adjustable Rate and Mortgage Loan Products

The Department of Corporations is amending section 1950.314.8, title 10, California Code of Regulations, entitled "Nontraditional, Adjustable Rate and Mortgage Loan Products". The term "finance company" is being changed to "licensee". Finance Company was erroneously used in section 1950.314.8 in File No. 07-1115-01S. It should be "licensee" throughout.

Title 10
California Code of Regulations
AMEND: 1950.314.8
Filed 03/20/2008
Effective 03/20/2008
Agency Contact: Karen Fong (916) 322-3553

File# 2008-0318-03
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This emergency amendment will expand the regulated area of Salinas in Monterey County by approximately nine square miles and establish a new regulated area in the Carpinteria area of Santa Barbara County by approximately ten square miles with respect to the light brown apple moth (LBAM; *Epiphyas postvittana*) pursuant to the established quarantine protocol.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 03/21/2008
Effective 03/21/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0211-02
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This is the Certificate of Compliance for the prior emergency file 07-0813-01 E dealing with the Light Brown Apple Moth (*Epiphyas postvittana*) Interior Quarantine. The agency is hereby certifying that it has complied with the provisions of Government Code sections 11346.2 through 11346.9 prior to, or within 120 days of the effective date of the regulations listed.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 03/26/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0226-06
DEPARTMENT OF PESTICIDE REGULATION
Vector Control Exemption

The Department of Pesticide Regulation is amending section 6620, title 3, California Code of Regulations, entitled "Vector Control Exemption". The amendment is providing a cross-reference renumbering necessitated by a renumbering which took place in 95-0510-04N (section 6614(a) became 6614(b)(1), title 3, California Code of Regulations).

Title 3
California Code of Regulations
AMEND: 6620
Filed 03/19/2008
Effective 04/18/2008
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

File# 2008-0206-01
ENVIRONMENTAL PROTECTION AGENCY
Unified Program Non-Substantive Cleanup

This regulatory action is a non-substantive clean-up of previous rulemakings. It corrects grammar, acronyms and citations that were clearly incorrect. The explanatory statement describes each of the changes.

Title 27
California Code of Regulations
AMEND: 15100, 15110, 15140, 15150, 15160, 15170, 15185, 15186, 15187, 15187.1, 15190, 15200, 15210, 15220, 15230, 15240, 15241, 15250, 15260, 15280, 15290, 15300, 15310, 15330, 15400.2, 15600
Filed 03/21/2008
Agency Contact: Jim Bohon (916) 327-5097

File# 2008-0220-03
FAIR POLITICAL PRACTICES COMMISSION
Terms and References

This action adds and amends "Terms and References" under the chapter of "Definitions."

Title 2
California Code of Regulations
AMEND: 18200
Filed 03/19/2008
Effective 03/19/2008
Agency Contact:
Virginia Latteri-Lopez (916) 324-3854

File# 2008-0314-02
FAIR POLITICAL PRACTICES COMMISSION
Change of Position or Disclosure Category

This rulemaking amends Title 2, section 18735. This section addresses issues related to the filing of a Statement of Economic Interest when an employee changes positions within the same agency.

Title 2
California Code of Regulations
AMEND: 18735
Filed 03/24/2008
Effective 04/23/2008
Agency Contact:
Virginia Latteri-Lopez (916) 324-3854

File# 2008-0229-03
FISH AND GAME COMMISSION
Ecological Reserves

This regulatory package makes regulations more specific regarding prohibitions on firearms, littering, pets and grazing. It also corrects alphabetical errors, grammatical and spelling errors. Finally, it removes two ecological reserve areas and adds seven areas. It provides special area regulations to allow or limit specific activities, including restrictions on entry to the ecological reserves.

Title 14
California Code of Regulations
AMEND: 630
Filed 03/26/2008
Effective 04/25/2008
Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0206-05
STATE PERSONNEL BOARD
Cal-Trans Managerial Selection

This action concerns amendments to regulations on the Demonstration Project of the Department of Transportation re: managerial selection program. This action is exempt from the Administrative Procedure Act pursuant to Government Code section 19602(f) and is submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
AMEND: 549.90
Filed 03/19/2008
Effective 01/22/2008
Agency Contact:
Dorothy Bacskai Egel (916) 653-1403

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN OCTOBER 24, 2007 TO MARCH 26, 2008

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1
02/25/08 ADOPT: 48, 50, 52 AMEND: 55
01/29/08 AMEND: 1, 6, 90, and Appendix A (Std. Form 400)

Title 2

03/24/08	AMEND: 18735	(Renumbered to 649.5),	652.1
03/19/08	AMEND: 55300	(Renumbered to 649.39),	652.2
03/19/08	AMEND: 549.90	(Renumbered to 649.40),	653.1
03/19/08	AMEND: 18200	(Renumbered to 649.42),	653.2
03/03/08	AMEND: 1859.76, 1859.83, 1859.104.3	(Renumbered to 649.2),	653.3
02/25/08	AMEND: 549.80	(Renumbered to 649.41),	653.4
02/25/08	AMEND: 714	(Renumbered to 649.37),	653.5
01/07/08	AMEND: 1859.2, 1859.43, 1859.50, 1859.51, 1859.81, 1859.106	(Renumbered to 649.38),	653.6
01/07/08	AMEND: 18531.61	(Renumbered to 649.61),	654.1
01/03/08	ADOPT: 547.69, 547.70, 547.71	(Renumbered to 649.3),	654.2
	AMEND: 547.69 renumbered as 547.72, 547.70 renumbered as 547.74, 547.71 renumbered as 547.73	(Renumbered to 649.43),	654.3
		(Renumbered to 649.46),	654.4
		(Renumbered to 649.44),	654.5
12/26/07	AMEND: div. 8, ch. 54, sec. 54300	(Renumbered to 649.45),	654.6
12/19/07	ADOPT: 18413	(Renumbered to 649.47),	655.1
12/18/07	ADOPT: 1859.324.1, 1859.330	(Renumbered to 649.51),	656.1
	AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329	(Renumbered to 649.52),	656.2
		(Renumbered to 649.54),	656.3
		(Renumbered to 649.55),	656.4
		(Renumbered to 649.53),	656.5
12/17/07	AMEND: 58700	(Renumbered to 649.56),	656.6
12/17/07	AMEND: 18351	(Renumbered to 649.50),	656.7
12/13/07	ADOPT: 18531.2	(Renumbered to 649.58),	656.8
12/13/07	AMEND: 18530.4	(Renumbered to 649.57),	657.1
12/13/07	AMEND: 18421.2	(Renumbered to 649.59),	657.2
12/06/07	AMEND: 649, 649.1 (Renumbered to 649.15), 649.1.1 (Renumbered to 649.16), 649.2 (Renumbered to 649.12), 649.3 (Renumbered to 649.24), 649.7 (Renumbered to 649.35), 649.8 (Renumbered to 649.36), 649.9 (Renumbered to 649.7), 649.10 (Renumbered to 649.22), 649.11 (Renumbered to 649.8), 649.12 (Renumbered to 649.9), 649.13 (Renumbered to 649.23), 649.14 (Renumbered to 649.27), 649.15 (Renumbered to 649.11), 649.16 (Renumbered to 649.30), 649.17 (Renumbered to 649.31), 649.18 (Renumbered to 649.26), 649.20, 649.21, 649.22 (Renumbered to 649.10), 649.71 (Renumbered to 649.25), 649.72 (Renumbered to 649.4), 650.1 (Renumbered to 649.6), 651.1 (Renumbered to 649.1), 651.2 (Renumbered to 649.14), 651.3 (Renumbered to 649.13), 651.4 (Renumbered to 649.34), 651.5	(Renumbered to 649.60),	657.3
		(Renumbered to 649.62)	
		10/31/07	ADOPT: 18200
		10/30/07	AMEND: 1138.10, 1138.30, 1138.72, 1138.90

Title 3

03/26/08	AMEND: 3434(b)
03/21/08	AMEND: 3434(b)
03/19/08	AMEND: 6620
03/17/08	AMEND: 3434(b)
03/17/08	AMEND: 3406(b)
03/17/08	AMEND: 3700(c)
03/13/08	AMEND: 6860
03/12/08	AMEND: 3434(b)
03/12/08	AMEND: 3406(b)
03/05/08	AMEND: 3875
03/04/08	AMEND: 3867
03/03/08	AMEND: 3591.20
02/22/08	AMEND: 3434(b)
02/21/08	AMEND: 6393
02/11/08	AMEND: 3434(b)
02/08/08	AMEND: 3591.20
02/04/08	AMEND: 3434(b)
01/29/08	AMEND: 3700(c)
01/28/08	AMEND: 3433(b)

01/28/08	AMEND: 4500	8090, 8091, 8092, 8093, 8094, 8095,
01/25/08	ADOPT: 6445, 6445.5, 6448, 6448.1, 6449, 6449.1, 6450, 6450.1, 6450.2, 6451, 6451.1, 6452, 6452.1, 6452.2, 6452.3(a), 6452.3(b), 6452.3(c), 6452.3(d), 6452.3(e), 6452.3(f), 6452.4, 6536(a), 6536(b)(1-3), 6536(b)(4) AMEND: 6000, 6400, 6450, 6450.1, 6450.2, 6450.3, 6452, 6453, 6502, 6624, 6626, 6784	8096, 8097, 8098, 8099, 8100, 8101
01/24/08	AMEND: 1391, 1391.1	01/22/08 AMEND: 8070, 8072, 8073
01/22/08	AMEND: 3591.6	01/10/08 AMEND: 1632
01/22/08	AMEND: 3591.6	12/26/07 AMEND: 12002, 12122, 12202, 12203.2, 12222
01/22/08	AMEND: 3591.2(a)	11/21/07 ADOPT: 12347
01/22/08	AMEND: 3591.5(a)	11/09/07 AMEND: 1371
01/18/08	AMEND: 3423(b)	10/25/07 ADOPT: 1747, 1748
01/18/08	ADOPT: 3152	10/24/07 AMEND: 1486
01/11/08	AMEND: 3406(b)	Title 5
01/10/08	AMEND: 3433(b)	03/03/08 ADOPT: 9510.5, 9512, 9513, 9514, 9525 AMEND: 9510, 9511, 9515, 9516, 9517, 9518, 9519, 9521, 9522, 9523, 9524, 9527, 9528, 9529, 9530 REPEAL: 9517.1, 9520
01/07/08	AMEND: 1180.3.1	02/28/08 ADOPT: 11969.10, 11969.11 AMEND: 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9
12/26/07	AMEND: 3433(b)	02/25/08 AMEND: 41301
12/26/07	AMEND: 3963	02/22/08 AMEND: 3051.16, 3065
12/21/07	AMEND: 3434(b)	12/20/07 ADOPT: 1202 AMEND: 1200, 1204, 1204.5, 1205, 1207, 1207.1, 1207.2, 1207.5, 1209, 1210, 1211, 1211.5, 1215, 1215.5, 1216, 1217, 1218, 1219, 1225
12/20/07	ADOPT: 606	11/19/07 ADOPT: 11981.3, 11984.5, 11984.6, 11985, 11985.5, 11985.6 AMEND: 11981 (renumber to 11980), 11982 (renumber to 11981), 11985 (renumber 11981.5), 11980 (renumber to 11982), 11986 (renumber to 11982.5), 11983, 11983.5, 11984
12/19/07	AMEND: 3700(c)	11/05/07 ADOPT: 18134
12/19/07	AMEND: 3433(b)	10/29/07 ADOPT: 24010, 24011, 24012, 24013
12/10/07	AMEND: 3406(b)	10/24/07 ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8, 11996.9, 11996.10, 11996.11
12/06/07	AMEND: 3589	Title 8
12/03/07	AMEND: 3434(b)	03/05/08 AMEND: 1504, 1597
11/29/07	AMEND: 3434(b)	03/05/08 AMEND: 3228
11/29/07	AMEND: 3591.2	02/29/08 AMEND: 3270
11/27/07	AMEND: 3406(b)	12/31/07 AMEND: 3650
11/27/07	AMEND: 3433(b)	12/28/07 AMEND: 1604.24
11/21/07	AMEND: 3433(b)	12/11/07 ADOPT: 9767.16, 9813.1, 9813.2 AMEND: 9767.1, 9810, 9811, 9812, 9813
11/16/07	AMEND: 3417(b)	12/10/07 ADOPT: 13800
11/15/07	AMEND: 3434	12/04/07 AMEND: 3214, Figure E-1 of 3231, Plate B-17
11/14/07	AMEND: 3589	
11/14/07	AMEND: 3591.20	
11/09/07	AMEND: 3434(b)	
11/06/07	AMEND: 3406(b)	
11/01/07	AMEND: 1380.19, 1437.12	
10/29/07	AMEND: 3433(b)	
10/29/07	AMEND: 3406(b)	
10/25/07	AMEND: 3591.20(a & b)	
Title 4		
03/24/08	AMEND: 10177, 10178, 10181, 10182, 10187, 10188, 10189	
02/29/08	ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND:	

11/29/07 ADOPT: 33485 AMEND: 32135, 32166,
32500, 32630, 32700, 32781, 32784,
32786, 33480, 61020, 61450, 61470,
61480, 81020, 81450, 81470, 81480,
91020, 91450, 91470, 91480
11/26/07 ADOPT: 392.4 AMEND: 347, 350.1,
355, 359, 359.1, 371.2, 374, 385, 392.5
11/05/07 AMEND: 4324
10/31/07 AMEND: 1704
10/30/07 AMEND: 1532.2, 5203, 5206, 8359

Title 9

03/06/08 AMEND: 10025, 10057, 10515, 10518,
10524, 10545, 10550, 10606, 11014,
11017, 11024, 13070
02/28/08 ADOPT: 7024.9, 7025.4, 7136.4, 7136.5,
7136.6, 7136.7, 7136.8, 7136.9, 7137,
7138, 7179.4, 7179.5 REPEAL: 7136.5
02/13/08 ADOPT: 3100, 3200.010, 3200.020,
3200.030, 3200.040, 3200.050,
3200.060, 3200.070, 3200.080,
3200.090, 3200.100, 3200.110,
3200.120, 3200.130, 3200.140,
3200.150, 3200.160, 3200.170,
3200.180, 3200.190, 3200.210,
3200.220, 3200.225, 3200.230,
3200.240, 3200.250, 3200.260,
3200.270, 3200.280, 3200.300,
3200.310, 3300, 3310, 3315, 3320, 3350,
3360, 3400, 3410, 3500, 3505, 3510,
3520, 3530, 3530.10, 3530.20, 3530.30,
3530.40, 3540, 3610, 3615, 3620,
3620.05, 3620.10, 3630, 3640, 3650
REPEAL: 3100, 3200.000, 3200.010,
3200.020, 3200.030, 3200.040,
3200.050, 3200.060, 3200.070,
3200.080, 3200.090, 3200.100,
3200.110, 3200.120, 3200.130,
3200.140, 3200.150, 3200.160, 3310,
3400, 3405, 3410, 3415
12/10/07 AMEND: 13035
12/06/07 AMEND: 9100

Title 10

03/20/08 AMEND: 1950.314.8
03/18/08 AMEND: 2498.6
03/12/08 ADOPT: 2699.402 AMEND: 2699.100,
2699.205, 2699.6600, 2699.6607,
2699.6608, 2699.6613, 2699.6625,
2699.6629, 2699.6813
03/06/08 AMEND: 260.241, 260.241.2 REPEAL:
260.218.5, 260.241.1
02/22/08 ADOPT: 2695.20, 2695.21, 2695.22,
2695.23, 2695.24, 2695.25, 2695.26,
2695.27, 2695.28

02/14/08 ADOPT: 2790.8, 2790.9
02/11/08 AMEND: 5101
01/14/08 ADOPT: 2844 AMEND: 2840, 2842
01/08/08 ADOPT: 2240.5 AMEND: 2240, 2240.1,
2240.2, 2240.3, 2240.4
12/27/07 ADOPT: 1436, 1950.314.8
12/19/07 AMEND: 2698.82(b), 2698.84, 2698.87,
2698.89.1
11/30/07 AMEND: 2699.6611
11/30/07 ADOPT: 2699.6603, 2699.6604
AMEND: 2699.6603 (renumbered to
2699.6602), 2699.6605, 2699.6607,
2699.6608, 2699.6611, 2699.6625
11/15/07 AMEND: 2498.6
11/07/07 AMEND: 1409, 1422, 1423
11/02/07 AMEND: 2498.6
10/31/07 AMEND: 2318.6, 2353.1

Title 11

02/29/08 AMEND: 1009, 1070, 1071, 1082, 1083
01/16/08 REPEAL: 1305
12/19/07 ADOPT: 2021
12/11/07 AMEND: 300
12/10/07 AMEND: 1005, 1007, 1008

Title 13

03/07/08 AMEND: 345.02, 345.06, 345.21,
345.22
03/04/08 AMEND: 2485
02/08/08 AMEND: 621, 691, 693, 699
02/01/08 ADOPT: 1300, 1400, 1401, 1402, 1403,
1404, 1405 REPEAL: 1300, 1301, 1302,
1303, 1304, 1304.1, 1305, 1310, 1311,
1312, 1313, 1314, 1315, 1320, 1321,
1322, 1323, 1324, 1325, 1330, 1331,
1332, 1333, 1334, 1335, 1336, 1337,
1338, 1339, 1339.1, 1339.2, 1339.3,
1339.4, 1339.5, 1339.6, 1340, 1341,
1342, 1343, 1344, 1350, 1351, 1352,
1353, 1354, 1355, 1356, 1360, 1361,
1362, 1363, 1364, 1365, 1366, 1370,
1371, 1372, 1373, 1374, 1375, 1400,
1401, 1402, 1403, 1404, 1405, 1406,
1410, 1411, 1412, 1413, 1414, 1415,
1416, 1417, 1418, 1420, 1421, 1422,
1423, 1424, 1425 and Article 15 text.
12/10/07 AMEND: 553.70
12/05/07 ADOPT: 2166, 2166.1, 2167, 2168,
2169, 2170, 2171, 2172, 2172.1, 2172.2,
2172.3, 2172.4, 2172.5, 2172.6, 2172.7,
2172.8, 2172.9, 2173, 2174 AMEND:
1956.8, 1958, 1961, 1976, 1978, 2111,
2122, 2136, 2141, Incorporated Test
Procedures
11/09/07 AMEND: 1968.2, 1968.5, 2035, 2037,
2038

11/08/07 AMEND: 423.00

Title 14

03/26/08 AMEND: 630
 03/14/08 ADOPT: 13255.1 AMEND: 13055, 13111, 13169, 13255.0, 13255.1, 13255.2, 13576
 03/14/08 ADOPT: 5.79, 5.88, 29.16, 29.91 AMEND: 1.74, 5.80, 5.81, 5.87, 27.90, 27.91, 27.92, 29.15, 29.90, 701
 03/13/08 AMEND: 671
 03/10/08 ADOPT: 18218, 18218.1, 18218.2, 18218.3, 18218.4, 18218.5, 18218.6, 18218.7, 18218.8, 18218.9
 02/28/08 AMEND: 17211.1, 17211.4, 17211.7, 17211.9
 02/28/08 ADOPT: 749.3
 02/19/08 AMEND: 7.50
 02/13/08 ADOPT: 704
 02/11/08 ADOPT: 787.0, 787.1, 787.2, 787.3, 787.4, 787.5, 787.6, 787.7, 787.8, 787.9
 01/29/08 ADOPT: 25202, 25203, 25204, 25205, 25206, 25207, 25208, 25209, 25210, 25211
 01/28/08 ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5
 01/17/08 AMEND: 890
 01/10/08 AMEND: 1670
 01/08/08 AMEND: 251.3
 01/04/08 ADOPT: 11970 AMEND: 11900
 12/28/07 AMEND: 1280
 12/27/07 AMEND: 2.25, 2.30, 5.75, 5.86, 5.93, 5.95, 6.37, 7.50, 8.00, 670.5
 12/26/07 ADOPT: 2990, 2995, 2997 AMEND: 2125, 2518
 12/26/07 AMEND: 2.00
 12/17/07 AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867
 12/17/07 AMEND: 632
 12/14/07 ADOPT: 700.4, 700.5 AMEND: 1.74, 29.15, 116, 300, 551, 705
 11/29/07 ADOPT: 916.9.1, 936.9.1, 916.9.2, 936.9.2, 916.11.1, 936.11.1, 923.9.1, 943.9.1, 923.9.2, 943.9.2 AMEND: 859.1, 916.9, 936.9, 956.9, 923.9, 943.9, 963.9
 11/29/07 AMEND: 895.1, 1052, 1052.1, 1052.4
 11/29/07 ADOPT: 1093, 1093.1, 1093.2, 1093.3, 1093.4, 1093.6 AMEND: 895, 895.1, 1037
 11/28/07 AMEND: 163, 164
 11/13/07 AMEND: 1038(i)
 11/07/07 AMEND: 550, 551, 552
 11/05/07 AMEND: 825.05
 10/25/07 AMEND: 502

10/24/07 AMEND: 895.1, 898, 914.8, 916, 916.2, 916.9, 916.11, 916.12, 923.3, 923.9, 934.8, 936, 936.2, 936.9, 936.11, 936.12, 943.3, 943.9, 954.8, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963.9

Title 15

03/18/08 ADOPT: 3269 AMEND: 3315
 03/18/08 ADOPT: 3486 AMEND: 3482, 3484, 3485
 03/06/08 ADOPT: 3355.2 AMEND: 3030, 3050, 3268.2, 3355, 3355.1
 02/25/08 ADOPT: 3075.4 AMEND: 3000
 02/04/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792
 01/23/08 AMEND: 3190, 3191
 01/17/08 AMEND: 2275
 01/08/08 AMEND: 3282
 12/28/07 ADOPT: 3269.1 AMEND: 3005, 3315, 3341.5
 12/18/07 AMEND: 3052, 3054.1
 12/11/07 AMEND: 176
 11/29/07 AMEND: 2600.1
 11/29/07 AMEND: 2616

Title 16

03/26/08 AMEND: 3065
 03/24/08 AMEND: 974
 03/18/08 AMEND: 1399.651
 03/12/08 AMEND: 1435.2
 02/19/08 AMEND: 1887.2, 1887.3
 02/15/08 AMEND: 30, 95, 95.2, 95.6
 02/04/08 AMEND: 2751
 02/01/08 ADOPT: 1028.2, 1028.3, 1028.4, 1028.5 AMEND: 1021
 01/11/08 ADOPT: 3340.43 AMEND: 3340.42
 12/27/07 AMEND: 1833.1, 1870
 12/27/07 ADOPT: 1887.13, 1887.14 AMEND: 1816.7, 1887.7
 12/18/07 AMEND: 1707, 1709.1, 1715, 1717, 1746, 1780.1, 1781, 1787, 1790, 1793.8, Form 17M-13, Form 17M-14 REPEAL: 1786
 12/13/07 ADOPT: 1044.4 AMEND: 1044, 1044.1, 1044.3, 1044.5
 11/30/07 AMEND: 1805, 1806, 1816, 1816.1, 1816.2, 1816.4, 1816.6, 1854, 1856, 1858 REPEAL: 1833.3, 1855, 1857
 11/26/07 ADOPT: 4400, 4402, 4404, 4406, 4420, 4422, 4424, 4426, 4428, 4443, 4500, 4520, 4522, 4540, 4542
 11/26/07 ADOPT: 4580

11/21/07 AMEND: 998
 11/19/07 AMEND: 1749
 11/07/07 AMEND: 1523
 11/02/07 ADOPT: 4440, 4442, 4444, 4446, 4448,
 4450, 4452, 4470, 4472, 4474, 4476,
 4478, 4480, 4482, 4484

10/31/07 AMEND: 1707.2

Title 17

03/17/08 ADOPT: 100700
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